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HUMAN RIGHTS COMMITTEE

Fifty-first session

SUMMARY RECORD OF THE 1321st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 5 July 1994, at 10 a.m.

Chairman: Mr. ANDO

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4)

Third periodic report of Jordan (CCPR/C/76/Add.1; HRI/CORE/1/Add.18/Rev.1)

1. At the invitation of the Chairman, Mr. Abul-Ethem, Mr. Khasawneh and Mr. Ghazi El Rashdan (Jordan) took places at the Committee table.

2. The CHAIRMAN, welcoming the delegation of Jordan, said the Committee was aware of Jordan's excellent human rights record. An eminent Jordanian expert, Mr. Sadi, was a member of the Committee, and had contributed greatly to the success of its work.

3. Outlining the Committee's working procedure, he invited the delegation to begin by responding, section by section, to the questions raised in the list of issues to be taken up in connection with the consideration of the third periodic report of Jordan (CCPR/C/76/Add.1). At the end of the replies to each section, Committee members might raise oral questions of their own. Finally, in closed session, the Committee would adopt comments, which would represent an overall evaluation of the dialogue that had taken place. Those comments would be forwarded to the Government of Jordan through its Mission in Geneva.

4. Mr. ABUL-ETHEM (Jordan) said it was a great pleasure for his delegation to be attending the Committee's session to participate in discussion of Jordan's third periodic report. The Committee had become known throughout the world for its important role in monitoring the compliance of States parties with their obligations under the Covenant. Jordan had always made every effort to guarantee the human rights, and notably the civil and political rights, of all its citizens, in cooperation with the various United Nations human rights treaty bodies. He wished to express his delegation's deep regret that, due to circumstances beyond its control, it had been unable to be present at the Committee's fiftieth session, held in New York in March 1994.

5. Jordan believed that all human beings had been endowed by the Creator with rights and obligations in equal measure. Men and women were not mere biological entities, but had the faculty of reason, which enabled them to identify and to pursue goals and objectives. Men and women were also social beings, conscious of belonging to an international community and also to humanity as a whole. Jordan took the view that human rights were part of humanity's common heritage, and it was on that basis that it sought to promote the principles laid down in the Universal Declaration of Human Rights. It was prepared to cooperate fully with the Committee in the effort to achieve the greatest possible degree of enjoyment of those rights.

6. The number and nature of questions posed in the list of issues seemed to indicate that the Committee had received a false impression of the situation in Jordan, due either to lack of information or to shortcomings in the picture provided by the mass media. That seemed to be the case particularly in regard to the previous five years, during which King Hussein had inspired a return to democracy in the country. Earlier, a war which had threatened Jordan's very

existence had made it necessary to declare a state of emergency and to appoint a National Consultative Council composed of well-known and respected public figures. The situation had subsequently changed, and the King had announced the ending of the state of emergency and a return to the system of parliamentary elections. At the same time, the Government had announced a programme of economic, political and administrative reform. Political pluralism had become the rule, and all decisions were now taken on the basis of consultation between the various political elements and of cooperation between the legislative, executive and judicial branches.

7. Jordan had now become a haven of peace and stability in the region, and its political life had become a model for others, inspiring respect and even envy.

8. The CHAIRMAN invited the Jordanian delegation to respond to the questions in section I of the list of issues, which read:

"I. Constitutional and legal framework within which the Covenant is implemented; state of emergency, non-discrimination and equality of the sexes

(arts. 2 (2) and (3), 3, 4 and 26)

(a) Please clarify whether individuals can and do invoke the provisions of the Covenant directly before the Jordanian courts and illustrate how conflicts that may arise between the provisions of the Covenant and domestic law, including unwritten laws, are being resolved.

(b) Please clarify whether the Independent Administrative Tribunal and the Constitutional Court envisaged in the National Charter have already been established (see para. 51 of the core document).

(c) Has the independent body - foreseen in the National Charter - that is to modernize and update Jordanian legislation been established and, if so, please comment on its functions and activities (see para. 51 of the core document)?

(d) Please provide examples of cases in which judges may be dismissed by the Supreme Council of the Judiciary as a penalty for 'having committed offences prejudicial to their judicial integrity' (see para. 34 (a) of the report).

(e) Please clarify the positive consequences of the lifting on 7 July 1991 of the state of emergency which had been in force throughout the national territory since 1967, in particular for persons who had been and remain affected by measures taken pursuant to emergency provisions.

(f) Please clarify what rights have been derogated from during the successive states of siege as well as the actual constitutional or statutory basis for ensuring in time of emergency conformity with article 4, paragraph 2, of the Covenant. In particular, has the new

Defence Act referred to in paragraph 9 of the report been adopted and what are the safeguards and remedies available to the individual during a state of emergency?

(g) In the light of the provisions of the Martial Law Administrative Instruction No. 2 of 1989, which has revoked the competence of military courts to hear certain cases, please provide information on the current composition and competence of such courts, particularly regarding crimes and offences which remain under their jurisdiction (see para. 9 of the report).

(h) Please provide details of the activities being undertaken in Jordan to promote awareness of the provisions of the Covenant.

(i) In the light of the statement in paragraph 5 of the report that, although women played an effective role in the parliamentary elections in 1989, none of them was elected, please comment on any special factors or difficulties encountered in ensuring respect for equality between men and women."

9. Mr. ABUL-ETHEM (Jordan), replying to question (a), said that Jordan's Constitution, which was considered one of the most modern and progressive in the world, took first place in the hierarchy of legal norms. There was no incompatibility between the provisions of the Covenant and Jordanian domestic law; in the case of any such incompatibility occurring, the provisions of the Covenant would prevail, unless they were in contradiction with the Constitution. The provisions of the Covenant could be invoked directly before the Jordanian courts, although to date no one had availed himself of that possibility.

10. Judgements handed down by the Jordanian Court of Cassation were final. One such judgement, decision No. 168/91 of 6 February 1992, clearly established that the provisions of international instruments took precedence over both national and local laws.

11. Turning to question (b), he explained that the Court of Cassation had taken steps in 1992 to broaden its authority to annul administrative decisions upon appeal; it was now empowered to award compensation for injury resulting from decisions that were erroneous or ran counter to the law; it could also, upon appeal, suspend the application of any law that had the effect of impairing human rights or was otherwise deemed unconstitutional; its previously limited competence in the matter of appeals by public officials against decisions by their superiors had also been expanded. In addition, the Court was empowered to hear complaints with regard to election results. Generally speaking, and on the basis of his own considerable experience as a judge of the Court, he could affirm that no administrative decision, however legally well-founded it might appear to be, was exempt from appeal; the Court - whose rulings were immediately applicable and which commanded great respect - was a veritable bastion for the defence of the Constitution, the upholding of justice and the maintenance of the rule of law. That was only fitting in a country which had espoused democracy based on participation and political pluralism and was permeated by the King's celebrated adage that its people were the nation's most highly prized possession.

12. Recalling that the Jordanian Constitution provided for the separation of the legislative, executive and judicial powers, he said that, over the years, the judiciary had acquired a vast amount of experience and expertise, as well as a well-deserved reputation for independence, impartiality, boldness and courage. The firm and successful stand taken by the Court of Cassation declaring unconstitutional a government ban on rallies and public gatherings just before the national elections was but one demonstration of those qualities among the many that he could set before the Committee.

13. The Constitutional Court envisaged in the National Charter had not yet come into being, but most of the powers that such a body might be expected to enjoy had devolved on the Court of Cassation. He cited as an example the authority to abrogate any provision, law or regulation that was deemed unconstitutional. Moreover, article 122 of the Constitution provided that a High Tribunal might interpret the provisions of the Constitution at the request of either House of the National Assembly; any such interpretation was to be implemented upon publication in the Official Gazette.

14. While the independent body foreseen in the National Charter and referred to in question (c) of the list of issues also remained to be established, some of the functions of such a body were being exercised by the High Tribunal to which he had just referred. The recently created Legal Affairs Department in the Office of the Prime Minister had embarked on the modernization and development of Jordanian legislation.

15. Concerning question (d), he said that there had been no case of dismissal of judges during the previous two years. Two judges suspended indefinitely from their functions by decision of the Supreme Council of the Judiciary during their first year of office had unsuccessfully appealed to the Court of Cassation against that decision; they were thus unlikely to obtain tenure.

16. In response to question (e), he said that the abolition of martial law in 1991 had virtually put an end to the state of emergency. One of the most positive consequences had been the abolition of the special courts set up under the authority of the Military Governor General (i.e. the Prime Minister) to hear criminal cases in common law brought by the military authorities; while the Prime Minister had been empowered to endorse, amend or annul the judgements by such courts, there had been no provision for appeal.

17. Other important consequences had been the prohibition of arbitrary arrest and detention by the security forces or administrative authorities (prefectures); abolition of approval by the security forces as a prerequisite of senior appointments in government or business; the removal of travel restrictions; and the reinstatement of civil servants who had been wrongfully dismissed.

18. Clearly, certain constitutional and legal guarantees could no longer be provided during a state of emergency. He confirmed that the new Defence Act of 1992 (question (f)) had been adopted. It empowered the Council of Ministers to declare a state of emergency in the event of war or threat of war, internal strife or conflict, natural disasters or spread of epidemics. Under the provisions of the Act, the duration of the state of emergency need not be specified. Article 4 of the Act gave the Council of Ministers and the

Prime Minister certain prerogatives, namely to take the necessary steps to ensure public safety and the defence of the realm without, however, derogating from the provisions of generally applicable law. It should be noted that the Act could only enter into force at the behest of King Hussein following its proclamation in a royal decree, on the advice of the Council of Ministers.

19. On question (g), following the lifting of the state of emergency and the abolition of military courts, a Court of State Security had been set up by virtue of Act No. 6 of 1993. The Court comprised three civil judges and one military judge and was competent to try crimes against State security committed within Jordanian territory and abroad, as detailed in articles 107-117 and 135-149 of the Jordanian Penal Code; other areas of competence of the Court of State Security included crimes against the protection of State secrets and official documents; forgery; drug offences; violations of the provisions of article 12 of the Explosives Act; violations of article 195 of the Penal Code; and financial and economic crimes. In the Court due process of law was guaranteed. Trials for such offences were held in public and the records of the proceedings and expert and investigation reports were readily available. Accused persons were promptly informed of the charges against them and a list of the charges and witnesses at the trial was published. Access to a defence lawyer was guaranteed and assistance provided by the State for persons of limited financial means. Witnesses for the prosecution could be cross-examined, and all trials were conducted according to the principle that an accused person was innocent until proved guilty. All sentences handed down by the Court of State Security could be appealed against to the Court of Cassation. The latter, comprising at least five judges, after weighing the charges and the evidence available, could amend sentences or even overturn verdicts handed down by the Court of State Security and acquit the accused of the charges.

20. Regarding question (h), on an official level activities were already under way to promote awareness of the provisions of the Covenant. At the request of King Hussein, a committee composed of dignitaries and human rights experts had been set up for that very purpose and had drafted an appropriate bill which was expected shortly to be ratified by the National Assembly. An intensive campaign was also being carried out to educate the general public about human rights issues through national radio and television and inform them of their civil and political rights through round-tables and conferences.

21. On an unofficial level, human rights associations had been set up, including the Jordan Section of the Arab Organization for Human Rights. Its activities included following up of complaints lodged by citizens, publication of articles on human rights violations in Jordan and abroad, and organization of conferences and meetings to promote awareness of human rights issues. Its representatives participated in all regional and international Arab conferences on human rights and visited prisons to report on the conditions of inmates. Authorization had recently been given to open a branch of Amnesty International in Jordan. Furthermore, the political parties were to be commended on their efforts to foster knowledge of human rights questions among the general public.

22. Referring to question (i), he said the fact that none of the three female candidates in the 1989 parliamentary elections had been elected was not

necessarily due to any particular difficulties facing women in Jordanian society. In the eyes of the voters, the three women concerned had not possessed the necessary skills or political experience. It was worthwhile noting that one woman had subsequently been elected to the National Assembly following the 1993 parliamentary elections. Moreover, there were currently two women members on the Council of Notables, and the Ministry of Industry and Commerce was headed by a woman. Jordanian women held key posts and positions of responsibility in many other State institutions as well as in the Jordanian army and police force, which was ample proof of the equality between men and women. Public office was open to suitably qualified women on the same conditions as to men.

23. The CHAIRMAN invited the members of the Committee who so wished to put additional questions in the light of the replies by the representative of Jordan to section I of the list of issues.

24. Mr. AGUILAR URBINA, after welcoming the Jordanian delegation, drew attention to the close affinity between Hispanics and Arabs given their common cultural heritage, in particular with regard to the status of women. In that connection, he expressed surprise that, according to the report, there was no discrimination against women in Jordan, the application of the relevant provisions of the Constitution ensuring total equality of the sexes in all spheres of life. It could not be denied that the situation of women in Jordan had improved significantly of late, as borne out by the recent statistics concerning women in higher education. Nevertheless, he wondered why, despite their high level of education, women currently constituted only some 10 per cent of the national labour force. In that connection, the core document indicated that 68 per cent of applications for posts in the civil service in 1990 had been received from women. He would welcome more information on practical measures being taken to ensure that women played a more active role in society.

25. While he welcomed the suspension of martial law and the drafting of a new Defence Act, he expressed concern regarding the provisions of the Jordanian Constitution governing a state of emergency, namely articles 124 and 125, which, in various respects, ran counter to the principles enshrined in the Covenant. Of even greater concern to him was the act on extinction of responsibility following the suspension of martial law, a type of measure strongly condemned by the Committee in the past in connection with some Latin American countries. He sought details on the scope of the act and inquired who had benefited from it to date.

26. Mrs. EVATT noted that Jordan's ability to implement human rights provisions fully were affected by many factors, such as the economic situation and its reception of large numbers of refugees. The Committee had been provided with a great deal of supplementary information at the current meeting, which reflected Jordan's intention to continue adopting measures to give effect to the rights recognized in the Covenant. However, there were some matters which gave cause for concern. For example, the state of emergency had been lifted, but immunity still appeared to exist for acts committed during that period. The situation was inconsistent with the provisions of the Covenant, which prohibited derogation from certain rights in

any circumstances. If someone had been tortured or subjected to inhuman treatment during the state of emergency, could any measure be taken to punish the perpetrators?

27. With regard to the special courts, she would welcome information concerning the kind and number of cases dealt with. She would also like to know whether any consideration had been given to the possibility of bringing those courts into the ordinary court system. In that connection, she asked what had been the outcome of the case in which a number of journalists had been prosecuted for criticizing those courts.

28. With respect to the question of women's equality, she noted that the National Charter stated that men and women were equal before the law and that there was no distinction between their rights and duties. However, the Constitution did not include sex or gender as one of the grounds of discrimination. That was somewhat disturbing because it appeared that a woman could not rely on the Constitution to challenge an act of discrimination on the grounds of sex. A number of matters of great importance to women still appeared to be subject to religious courts. Some of the religious laws appeared to have provisions which were unequal in their impact, such as inheritance laws which distinguished between sons and daughters, divorce laws, and laws which gave the Islamic husband the right to discipline his wife. She wondered whether that right meant that, in general, the community considered violence against women to be a matter of private concern. Lastly, she asked whether a woman was required to obtain permission from her husband in order to travel abroad or to take their children abroad and, if so, whether that rule applied reciprocally to the husband.

29. Mr. MAVROMMATIS expressed appreciation of the progress being made by Jordan in the field of human rights and welcomed the possibility of maintaining a fruitful dialogue with the Government of that country.

30. He would like to have further information concerning the activities being undertaken in Jordan to promote public awareness of the provisions of the Covenant.

31. Noting that the Martial Law Administrative Instruction No. 2 of 1989 had revoked the competence of military courts to hear certain cases, he said that he would welcome information on the current composition and competence of such courts, with particular regard to offences remaining under their jurisdiction. He also asked for information on the Council of Notables referred to by the delegation.

32. Mr. BRUNI CELLI welcomed the statement by the Government of Jordan in paragraph 4 of its third periodic report to the effect that the Covenant and other instruments ratified by it should be respected and take precedence over its domestic legislation. With regard to the second sentence of the paragraph, he would like to know how public order would be jeopardized by provisions of the Covenant. Referring to the last sentence of the paragraph, he stressed the need for the remaining rights recognized in the Covenant to be embodied in Jordanian legislation as soon as possible so that article 2 of the Covenant could be fully implemented.

33. Mr. BAN said he believed that recent developments in the Middle East, including the agreement between Israel and the Palestine Liberation Organization, would provide an opportunity to enhance the human rights situation in that part of the world.

34. He, too, would welcome further information concerning the second sentence of paragraph 4 of the Jordan report. He wondered whether the statement that the human rights recognized in the Covenant were assured to every Jordanian meant that non-Jordanians were placed in a different situation; if so, such action would be contrary to article 1 of the Covenant.

35. With regard to the status of women, he understood that a woman's testimony in court had only half the value of testimony given by a man. That fact, and the comments made by previous speakers, indicated that the situation concerning equality between the sexes under Jordanian legislation left something to be desired.

36. Mr. HERNDL, referring to the applicability of the Covenant in Jordan, noted from paragraph 4 of the report, that Jordanian courts accorded international conventions precedence over domestic legislative enactments unless public order would be jeopardized thereby. The question had been discussed by the Committee three years previously and the Jordanian representative at the time had said that the proviso was limited to states of emergency or danger threatening the future of the nation. However, article 124 of the Constitution referred to cases of emergency and authorized the issuance of a special law known as the Defence Act by the head of State. Therefore, the King could abrogate any law in force. However, under article 4 of the Covenant, there were a number of obligations that could not be derogated from, even in a state of emergency. Provision had to be made in internal legislation to ensure the necessary safeguards, even in cases of national emergency.

37. With regard to the equality of the sexes, he said that, according to a United States State Department report on the situation of human rights in 1993, women were discriminated against in Jordan in respect of inheritance and the family.

38. Paragraph 5 of the Jordan report was concerned mainly with the political role of women. He recognized the efforts of the Government to accord women the same position as men in political life, but the paragraph in question made no reference to the family or personal status of women.

The meeting rose at 1 p.m.